

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

FULL SERVICE SYSTEMS	§	
CORPORATION and SOUTHERN	§	
SERVICE CORPORATION	§	PLAINTIFFS
	§	
v.	§	CIVIL ACTION NO. 1:08CV103-LG-RHW
	§	
INNOVATIVE HOSPITALITY SYSTEMS,	§	
LLC OF LOUISIANA; COMPLETE	§	
STAFFING SOLUTIONS, LLC; JULIO	§	
CASTRO; and JOHN DOES 1-10	§	DEFENDANTS

**ORDER GRANTING PLAINTIFFS' MOTION IN LIMINE TO
EXCLUDE EVIDENCE OR ARGUMENT THAT PLAINTIFFS'
KNOWINGLY UTILIZE UNDOCUMENTED WORKERS**

BEFORE THE COURT is the Motion in Limine [216] filed by the plaintiffs, in which they seek to exclude evidence or argument that they employ undocumented workers. The defendants have filed a response in opposition to the Motion, and the plaintiffs have replied. Upon reviewing the submissions of the parties and the applicable law, the Court finds that the probative value of evidence or testimony that the plaintiffs employ undocumented workers would be substantially outweighed by the danger of unfair prejudice pursuant to Rule 403 of the Federal Rules of Evidence. Thus, the Motion is granted.

DISCUSSION

In this lawsuit, the plaintiffs allege that the defendants' practice of illegally treating their workers as independent contractors has prevented the plaintiffs from obtaining janitorial contracts with hotels and casinos. The defendants wish to present testimony and evidence that the plaintiffs have had difficulties in the past with United States Citizenship and Immigration Services due to their employment of undocumented workers. The plaintiffs counter that, while

the issue has arisen in the past, they never intentionally employed such workers. Moreover, the plaintiffs assert that they have always properly withheld taxes from their employees' paychecks, while the defendants fail to withhold taxes from their workers' paychecks. The plaintiffs also argue that the danger of unfair prejudice in presenting such evidence and testimony substantially outweighs the probative value of the evidence.

Nevertheless, the defendants argue that they are entitled to present this evidence to counter the plaintiffs' contention that the plaintiffs' business model is lawful. They also argue that they should be permitted to present the evidence and testimony pursuant to the doctrine of unclean hands.

Louisiana law applies to the remaining claims in this lawsuit. The clean hands doctrine is recognized as a defense in Louisiana. *Allvend, Inc. v. Payphone Comm'ns Co., Inc.*, 804 So. 2d 27, 30 (La. App. 2001). Pursuant to this doctrine, "[a] person cannot maintain an action if, in order to establish his cause of action, he must rely in whole or in part, on any illegal or immoral act or transaction to which he is a part." *Id.* There is no indication that the plaintiffs are using inequitable or immoral conduct to support their case against the defendants, and the defendants did not file a motion that requested dismissal on this ground. Therefore, the doctrine of unclean hands is not relevant to the present motion.

Furthermore, the issue of whether either party ever utilized undocumented workers is irrelevant to this lawsuit. The only issues presented are whether the defendants have interfered with the plaintiffs' business relations and contracts by failing to withhold taxes from their workers and whether the plaintiffs have committed an abuse of process. There is no indication that the plaintiffs' alleged use of undocumented workers ever harmed the defendants or mitigated

any harm caused by the defendants to the plaintiffs. Finally, the Court finds that such evidence would be prejudicial to the plaintiffs and may confuse the jury. As a result, the evidence and testimony concerning undocumented workers is barred pursuant to Rule 403 of the Federal Rules of Evidence.

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion in Limine [216] filed by the plaintiffs is **GRANTED**.

SO ORDERED AND ADJUDGED this the 8th day of July, 2010.

s/ *Louis Guirola, Jr.*

Louis Guirola, Jr.
United States District Judge